

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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JAN KOPACZ and ESTATE OF CATHY :
KOPACZ, :
: Plaintiffs, : C.A. No. 04-911 GMS
v. : : Jury Trial Demanded
DELAWARE RIVER AND BAY :
AUTHORITY, and CRAIG SWETT, :
: Defendants. :
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: :
JAN KOPACZ, :
: Plaintiff, : C.A. No. 04-1281 GMS
v. : :
DELAWARE RIVER AND BAY :
AUTHORITY, :
: Defendant. :
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**UNOPPOSED MOTION OF DEFENDANT, DELAWARE RIVER & BAY AUTHORITY
TO ALTER OR AMEND JUDGMENT PURSUANT TO FED. R. CIV. P. 59(E)**

1. Plaintiff initially filed suit against the Defendant, Delaware River & Bay Authority (hereinafter "DRBA"), in the United States District Court for the District of New Jersey, under Docket No. 03-CV-4858. This action sought relief for maintenance and cure, and venue was subsequently transferred to the United States District Court for the District of Delaware, and was assigned C.A. No. 04-1281 GMS.

2. Thereafter, on or about July 28, 2004, Plaintiff filed a Complaint in the United States District Court for the District of Delaware, under the above-caption C.A. No. 04-911 GMS, against the DRBA and Craig Swett. Count I of the Complaint asserted a cause of action against the DRBA for negligence. Count II of the Complaint asserted a cause of action against the DRBA for unseaworthiness.

3. A jury trial was held in this Court from February 6, 2006 through February 10, 2006. The Verdict Sheet returned by the jury on February 13, 2006 found that Kopacz was not struck or injured by the Swett vehicle, and thus it was not necessary for the jury to decide the negligence or unseaworthiness issues.

4. The judgment entered by the Court on February 15, 2006 did not reflect a finding in favor of the DRBA on the counts of negligence and unseaworthiness. Requests to correct errors of this type are resolved by filing a Motion to Alter or Amend the Judgment pursuant to Fed. R. Civ. P. 59(e).

5. Counsel for the Plaintiffs, E. Alfred Smith, Esquire and counsel for defendant Craig Swett, Donald Ransom, Esquire, have no objection to the instant motion seeking an amendment of the judgment to reflect the jury's finding in favor of the DRBA on the claims of negligence and unseaworthiness.

WHEREFORE, it is respectfully requested that this Honorable Court, pursuant to Fed. R. Civ. P. 59(e), amend the judgment entered in C.A. No. 04-1281 GMS to additionally reflect judgment in favor of the Delaware River and Bay Authority on the claims of negligence and

unseaworthiness.

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CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2006, I electronically filed with the Clerk of Court MOTION OF DEFENDANT, DELAWARE RIVER & BAY AUTHORITY TO ALTER OR AMEND JUDGMENT PURSUANT TO FED.R.CIV.P. 59(E) and [PROPOSED] ORDER RE: UNOPPOSED MOTION OF DEFENDANT, DELAWARE RIVER & BAY AUTHORITY TO ALTER OR AMEND JUDGMENT PURSUANT TO FED.R.CIV.P. 59(E) using CM/ECF which will send notification of such filing to the following:

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